

REMARKS

The Applicant has carefully considered the official action dated March 16, 2009. In the official action, claims 1-34 were rejected under 35 USC § 251 as based upon a defective reissue Declaration. The official action also states that the amendments to the claims look to already be in the patented version of the claims and that the amendments are, therefore, improper under 37 CFR § 1.173. In view of the following remarks, the Applicant respectfully traverses the rejections and submits that all claims are in condition for allowance. Favorable reconsideration of this application is respectfully requested.

I. Supplemental Reissue Declaration

In response to the rejection under 35 USC § 251, the Applicant has concurrently submitted herewith an executed supplemental reissue declaration pursuant to 37 CFR § 1.175(b)(1). Accordingly, the Applicant requests withdrawal of the § 251 rejection.

II. Properness of Amendments

The Applicant respectfully submits that the amendments to the claims are proper under 37 CFR 1.173. In particular, all claim amendments are made relative to the patented claims. *See 37 CFR § 1.173 (g)* (“All amendments must be made relative to the patent specification, including the claims, and drawings, which are in effect as of the date of filing of the reissue application.”).

In addition, as indicated in the supplemental reissue declaration, original patented claim 1 recites “a gathering conveyor” at col. 5, line 56 of the ‘566 patent, while new reissue claim 16 of the present application is broadened for at least the reason that the language “a gathering conveyor” is not recited therein. Therefore, the amendment to independent claim 16 is not already in the patented version of the claims. The Applicant respectfully submits that amendments to independent claims 21, 27, and 31 are also not already in the patented version of the claims.

III. Conclusion

In view of the foregoing, the Applicant respectfully submits that this application is in condition for allowance and requests an early favorable notification to that effect. If there are any remaining matters that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

The Commissioner is hereby authorized to charge any deficiency in the amount submitted or any additional fees which may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 50-2455. Please refund any overpayment to Hanley, Flight & Zimmerman, LLC, at the address below.

In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this case and is not otherwise requested in this case, the Applicant requests that the Commissioner consider this paper to be a petition for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set forth in 37 CFR 1.17(a) corresponding to the needed extension of time to the above deposit account.

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Respectfully submitted,

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